

Assembly Bill 16 (Huff)
Campaign contributions: blackout period

Version: As introduced, December 6, 2004

Status: Introduced; referred to Assembly Elections

Executive Summary

This bill prohibits the Governor and Legislators from accepting any campaign contributions between the date of the May budget revision and the date of enactment of the budget bill for the upcoming fiscal year. In theory, this blackout would run from “on or before May 14,” to the date on which the Governor signs the budget bill.

Recommendation

Oppose unless amended to include language providing that any attorneys’ fees and court costs will be paid from the state General Fund, and not the Commission’s budget, in the event a party challenges the statute and is awarded these fees and costs.

Analysis

What Constitutional Deadline? The Constitutional deadline for passage of a state budget from the Legislature is June 15th of each year (Art. IV, sec. 12). Given that California has failed to pass a budget by the constitutional deadline in nearly two decades, the blackout period is likely to extend weeks and even months past that date.

Potential for Court Challenge This bill would prohibit fundraising by elected state officers during the nearly three weeks leading into the June state primary election. Because the bill applies only to current officeholders, candidates for elective state office would not be subject to the prohibition, creating the potential for a challenge on equal protection and other grounds.

Why the Budget? Without question, some budget programs represent large-stakes contracts for vendors and others offering goods and services to the state. But the stakes involved in the thousands of other bills that are introduced would, in the aggregate, far surpass those involved in the budget itself. Bills granting and repealing tax breaks, imposing or lifting regulatory burdens, and otherwise effecting myriad special interests are voted considered outside the blackout period of AB 16. Given the bill's premise, shouldn't the focus be on the legislative session rather than on a single measure?

Staff Concerns

Funding for Legal Challenges Staff recommends the Commission request the author include in the bill the following language in order to insulate the Commission's budget from the costs of a successful legal challenge. Under this language, the Commission would still bear the cost of defending the statute.

If this section is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the commission's budget shall not be reduced accordingly.